

STATE OF VERMONT

SUPERIOR COURT
FRANKLIN CRIMINAL DIVISION

CRIMINAL DIVISION
DOCKET NO: 399-3-19FRCR

ENTERED

AUG 9 2019

Vermont Superior Court
Franklin Unit

STATE OF VERMONT

V.

Amy M Connelly, Defendant

STATE'S OPPOSITION TO MOTION TO DISMISS

NOW COMES the State of Vermont, by and through its attorney, John Lavoie, and asks that defendant's Motion to Dismiss in the Interest of Justice be denied. This case, which began as a fairly run of the mill disorderly conduct, has become much more. The defendant faces charges for disorderly conduct, unlawful mischief and simple assault on a law enforcement officer. The facts supporting the charges are hotly contested and, although misdemeanors, are serious and are not therefore the sort of charges within the normal ambit of rule 48(b).

The defendant has a criminal history that includes convictions for driving with suspended license after suspension for DUI, two DUI convictions, and a simple assault conviction. The simple assault occurred in 2004 when the defendant assaulted her former boyfriend's mother who had attempted to stop the defendant who was assaulting the ex-boyfriend. While on probation for this simple assault, the defendant violated her probation twice. While on probation for DUI in 2007, the defendant again violated probation. During the arrest that led to the DUI conviction for which she was under supervision, she refused to comply with the arresting officer's instructions. She pulled away from the arresting trooper and when he attempted to handcuff her, she became

agitated and “screamed incessantly.” She was taken to Northwest Medical Center for an independent blood test. After the test, when she was asked to turn around so that the handcuffs might be reapplied, she told the trooper he would “have to fight” her.

On March 14, 2019 shortly before 10 p.m., the defendant was arrested again, this time for disorderly conduct. After fighting with a man at Shooter’s Bar, she was asked to leave the bar and refused. The bar’s owner attempted to remove her from the premises. She resisted attempts to remove her and tore the owner’s shirt in the process. According to police affidavits, she was heavily intoxicated having red blood shot eyes, an unsteady gait, slurred speech and smelling of intoxicants.

The defendant was arrested and brought to the Saint Albans Police Department for processing. The defendant did not follow officer instructions and had to be physically escorted to the holding cell. Inside the holding cell, the defendant began kicking the holding cell door. Video reveals that the defendant kicked the door forcefully enough to shake the frame around it. When ordered to stop, the defendant stood up and moved toward Sargent Lawton. The defendant was forcefully pushed back to her seated position. The defendant then stood up again and lunged angrily toward Sargent Lawton. The defendant then kicked Lawton in the shin. In order to gain control of the defendant and protect himself from further injury, Lawton struck the defendant once in the face.

The defendant suffered injury to her eye. She was transported to the hospital where she continued to be disorderly. The emergency room physician was unable to treat the defendant because of defendant’s abusive conduct. She called the doctor “bitch” and “cunt” during the doctor’s attempts to treat her.

The defendant claims that the arresting officer has lied under oath in a prior traffic court hearing. Video of the traffic stop involved is far more ambiguous than alleged by defendant. The State, through other prosecutors in the Franklin County State's Attorney's Office, was previously aware of the perjury allegation and reviewed the video. Prosecutors did not conclude that the officer had lied.

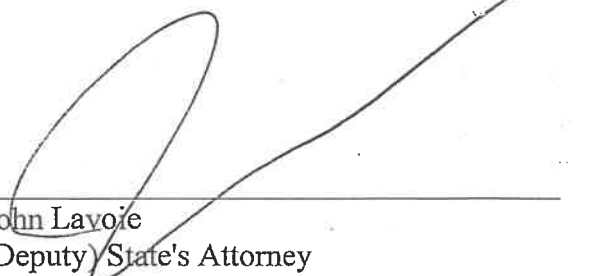
The defendant claims that the state will be unable to obtain a conviction in this case. She has not, however, filed her motion to dismiss under Rule 12(d). The evidence of underlying offenses is sufficient to obtain conviction. Contrary to the defendant's assertion, available video shows the defendant kicking Sargent Lawton in the shin. The available video shows the defendant's highly intoxicated condition. The video shows the defendant licking the wall. (Licking is correct and not a misspelling) The video show the defendant forcefully kicking the door. The video shows the officers' response to defendant's behavior.

The defendant has opted to file her motion under rule 48(b). The gravamen of her complaint centers around her post arrest treatment. Sargent Lawton has lost his job because of a single punch to the defendant's face. This is the same officer who, a year before this incident with defendant, saved the lives of fellow officers and residents of the Lincoln Street neighborhood by shooting and wounding an assailant who was shooting at police with an assault rifle. Dismissal of the present case without trial or hearing would undermine confidence in the judicial system. This case has garnered much attention in the media. The public should hear the complete story.

Dismissal under Rule 48(b) is entrusted to the discretion of this court. Subsection (c) of the rule mandates that when dismissal is over the objection of the State, the court

shall make findings of fact and state the reasons for dismissal. The State therefore requests that this matter be set for hearing.

DATED: August 7, 2019



John Lavoie
(Deputy) State's Attorney

cc: Albert Fox Esq.